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In re Application of	:	
WARD-ASKEY, et al.	:	
Application No.: 10/573,887	:	DECISION ON PETITION
PCT No.: PCT/GB04/04161	:	
Int. Filing Date: 29 September 2004	:	UNDER 37 CFR 1.181
Priority Date: 30 September 2003	:	
Attorney Docket No.: 3004535-7049128001	:	
For: IMPROVEMENTS IN THERMAL PAPER	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 16 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 September 2004, applicant filed international application PCT/GB04/04161, which claimed priority of an earlier application filed 30 September 2003. A copy of the international application was transmitted from the International Bureau (IB) on 14 April 2005. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 March 2006.

On 29 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an Information Disclosure Statement.

On 21 February 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response.

On 16 November 2007, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 21 February 2007 within the time period set therein and that above-identified application was abandoned as to the United States.

On 16 January 2008, applicant filed the present petition to withdraw the holding of

abandonment arguing that a response had been filed on 23 April 2007.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 23 April 2007. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Executed Combined Declaration and Power of Attorney" The receipt is stamped "OIPE IAP56 Patent & Trademark Office APR 23 2007" The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration on 23 April 2007 and it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is GRANTED.

The Form PCT/DO/EO/909 mailed 16 November 2007 is hereby VACATED.

The application has an international filing date of 29 September 2004 under 35 U.S.C. 363 and will be given a date of **23 April 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a filing receipt indicating the correct 371 date as detailed above.



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